

**ASSEMBLY BILL**

**No. 2973**

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**Introduced by Assembly Member Soto**

February 22, 2008

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An act to amend Section 244.5 of, and to add Chapter 4.5 (commencing with Section 12430) to Title 2 of Part 4 of, the Penal Code, relating to stun guns.

LEGISLATIVE COUNSEL'S DIGEST

AB 2973, as introduced, Soto. Stun guns.

Existing law makes it a misdemeanor or a felony to assault a person, or to assault a peace officer or firefighter during the performance of his or her duties, as specified, with a stun gun or a taser. Existing law defines "stun gun" for this purpose as any item, except a taser, used or intended to be used as a weapon that is capable of temporarily immobilizing a person by infliction of an electrical charge.

This bill would eliminate the reference to a taser in the definition of "stun gun." It would instead make it a misdemeanor or felony to assault a person with a stun gun or remote stun gun, as defined, or to assault a peace officer or firefighter in the performance of his or her duties with a stun gun that is not a remote stun gun, and would make it a felony to commit an assault against a peace officer or firefighter in the performance of his or her duties with a remote stun gun, as specified.

By changing the definitions of crimes, the bill would impose a state-mandated local program.

This bill would also require any person selling a "permissible remote stun gun," as defined, to register the identity of the purchaser with the manufacturer of the remote stun gun and would make a violation of that provision a misdemeanor. A person with one or more specified

attributes would be prohibited from purchasing, owning, carrying, using, or having in his or her possession a permissible remote stun gun. In addition, the bill would make it a misdemeanor for a person to purchase, acquire, carry, use, or have in his or her possession any remote stun gun that is not a permissible remote stun gun, or to purchase or have in his or her possession an activated unregistered permissible remote stun gun, as specified.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 244.5 of the Penal Code is amended to  
2 read:

3 244.5. (a) (1) As used in this section, “stun gun” means any  
4 item, ~~except a taser~~, used or intended to be used as either an  
5 offensive or defensive weapon that is capable of temporarily  
6 immobilizing a person by the infliction of an electrical charge.

7 (2) As used in this section, the definition of “remote stun gun”  
8 in Section 12430 applies.

9 (b) Every person who commits an assault upon the person of  
10 another with a stun gun ~~or taser~~ or remote stun gun shall be  
11 punished by imprisonment in a county jail for a term not exceeding  
12 one year, or by imprisonment in the state prison for 16 months,  
13 two, or three years.

14 (c) Every person who commits an assault upon the person of a  
15 peace officer or firefighter with a stun gun ~~or taser~~ that is not a  
16 remote stun gun, who knows or reasonably should know that the  
17 person is a peace officer or firefighter engaged in the performance  
18 of his or her duties, when the peace officer or firefighter is engaged  
19 in the performance of his or her duties, shall be punished by  
20 imprisonment in the county jail for a term not exceeding one year,  
21 or by imprisonment in the state prison for two, three, or four years.

1 (d) This section shall not be construed to preclude or in any way  
2 limit the applicability of Section 245 in any criminal prosecution.

3 SEC. 2. Chapter 4.5 (commencing with Section 12430) is added  
4 to Title 2 of Part 4 of the Penal Code, to read:

5  
6 CHAPTER 4.5. REMOTE STUN GUNS  
7

8 12430. As used in this chapter, the following terms apply:

9 (a) "Remote stun gun" means an electronic device that emits  
10 an electrical charge and is designed and primarily employed to  
11 incapacitate a person or animal either through contact with  
12 electrodes on the device itself or remotely through wired probes  
13 attached to the device, or through a spark, plasma, ionization, or  
14 other conductive means emitting from the device.

15 (b) "Permissible remote stun gun" means a remote stun gun  
16 having all of the following:

17 (1) An identification and tracking system that, in the course of  
18 an investigation, can and shall be made available to any law  
19 enforcement agency upon request.

20 (2) A training program offered by the manufacturer.

21 12431. (a) Any person selling a permissible remote stun gun  
22 which is activated shall register the identity of the purchaser with  
23 the manufacturer of the remote stun gun. The identification of the  
24 purchaser shall be verified with a government-issued identification,  
25 or by verifying the address and last four digits of the social security  
26 number of the purchaser.

27 (b) Each of the following persons is prohibited from purchasing,  
28 owning, carrying, using, or having in his or her possession a  
29 permissible remote stun gun:

30 (1) A person under the age of 18 years.

31 (2) A person convicted of a felony offense.

32 (3) A person who is required to register as a sex offender  
33 pursuant to Section 290.

34 (4) A person who is on a federal terrorist watch list.

35 (c) Failure of a seller to properly register the identity of a  
36 purchaser is a misdemeanor, punishable by a fine not to exceed  
37 one thousand dollars (\$1,000).

38 (d) Any person purchasing and possessing a permissible remote  
39 stun gun that is inactive shall register that device with the

1 manufacturer prior to activation. The identification of the purchaser  
2 shall be verified as specified in subdivision (a).

3 12432. (a) Any person who purchases, acquires, carries, uses,  
4 or has in his or her possession a remote stun gun, which is not a  
5 permissible remote stun gun, is guilty of a misdemeanor.

6 (b) Any person who purchases, or has in his or her possession,  
7 an activated unregistered permissible remote stun gun is guilty of  
8 a misdemeanor.

9 12433. Any person who commits an assault upon the person  
10 of a peace officer or firefighter, who knows or reasonably should  
11 know that the person is a peace officer or firefighter engaged in  
12 the performance of his or her duties when the peace officer or  
13 firefighter is engaged in the performance of his or her duties, with  
14 a remote stun gun is guilty of a felony, punishable by imprisonment  
15 in the state prison for two, three, or four years.

16 SEC. 3. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the penalty  
21 for a crime or infraction, within the meaning of Section 17556 of  
22 the Government Code, or changes the definition of a crime within  
23 the meaning of Section 6 of Article XIII B of the California  
24 Constitution.